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09/714,726	11/16/2000	Leland James Wieschuegel	AUS9-2000-0736-USI	9483

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EXAMINER

HAMILTON, LALITA M

ART UNIT	PAPER NUMBER
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3624

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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/714,726
Filing Date: November 16, 2000
Appellant(s): WIESEHUEGEL ET AL.

Robert H. Frantz
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 4, 2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 1-23 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

6,085,169	Walker et al	7-2000
5,835,896	Fisher et al	11-1998

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(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (6,085,169) in view Fisher (5,835,896).

In response to the amendment, Walker discloses the invention substantially as claimed; however, Walker does not disclose the process of "subsequent to said preparation of entitled offerings but prior to receiving any bids to purchase any offered items, presenting via a computer user interface said entitled offerings to one of more prospective brokers such that each broker may review entitled offerings containing information regarding items being offered for sale on which the broker is entitled to bid, but are not allowed to view information regarding items to which each broker is not entitled to bid". Fisher teaches a method for processing and transmitting electronic auction information comprising the process of "subsequent to said preparation of entitled offerings but prior to receiving any bids to purchase any offered items, presenting via a computer user interface said entitled offerings to one of more prospective brokers such that each broker may review entitled offerings containing information regarding items being offered for sale on which the broker is entitled to bid,

but are not allowed to view information regarding items to which each broker is not entitled to bid" (col.4, line 45 to col.5, line 27). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the process of presenting the offerings for review prior to receiving bids, as taught by Fisher into the process disclosed by Walker, as an additional rule that may be submitted by the customer when attempting to purchase an item, so that the customer may improve their chances of purchasing the exact item desired.

(11) Response to Argument

The Appellant argues that the Examiner did not properly respond to the amended claims. The Appellant amended independent claim 1 by adding the following limitations, which the Examiner interpreted as being disclosed by Walker (added limitations underlined): establishing one or more broker entitlement schema in an offering and bid collection system, said broker entitlement schema being based on a contractual arrangement between one or more brokers, one or more traders, and manufacturer or service provider; each entitlement schema containing one or more definitions indicating contractually allowable items which may be offered for sale to each broker by said trader; transmitting a first list of available items offered for sale by said manufacturer or service provider from said manufacturer or service supplier to said trader; and preparing one or more entitled offerings through filtering said first list of available, items according to said broker entitlement schema such that said prepared entitled offerings include only information for one or more items to which each broker is allowed to purchase as defined by each broker's associated broker entitlement schema. The Appellant

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amended independent claim 9 by adding the following limitations, which the Examiner interpreted as being disclosed by Walker (added limitations underlined): transmitting from a manufacturer or service provider to a trader a first list of items available for purchase from said manufacturer or service provider; accessing at least one broker entitlement schema in a computer-readable record for one or more brokers, each broker entitlement schema containing one or more entitlement definitions indicating allowable items for which a broker may receive offers for items to purchase from said manufacturer or service provider according to a contractual agreement; and preparing one or more entitled offerings through filtering said first list of items against said broker entitlement schema such that each resulting entitled offering only includes items for which each broker is allowed to receive offers to purchase, and excludes information regarding items to which each broker is not entitled to purchase. The Appellant amended independent claim 17 by adding the following limitations, which the Examiner interpreted as being disclosed by Walker (added limitations underlined): one or more broker entitlement schema, each broker entitlement schema containing entitlement definitions according to a contractual relations between a manufacturer or service provider and a broker regarding items to which the broker is entitled to receive offers for purchase and an entitled offering preparation server for preparing entitled offerings through filtering lists of available items against said broker entitlement definitions to produce entitled offerings including only items to which a broker is entitled to bid and excluding items to which a broker is not entitled to bid.

In response, the Examiner presented the Appellant with a first Office Action (October 4, 2003) rejecting claims 1-23 using the Walker patent. The Examiner clearly laid out where each and every limitation was found in Walker. When the Appellant amended the claims in an attempt to distinguish over the Walker reference, the Examiner found that Walker clearly disclosed each old and newly presented limitation, except for the limitation "subsequent to said preparation of entitled offerings but prior to receiving any bids to purchase any offered items, presenting via a computer user interface said entitled offerings to one of more prospective brokers such that each broker may review entitled offerings containing information regarding items being offered for sale on which the broker is entitled to bid, but are not allowed to view information regarding items to which each broker is not entitled to purchase". The Examiner incorporated the Fisher patent, which teaches a method and system for processing and transmitting electronic auction information comprising "subsequent to said preparation of entitled offerings but prior to receiving any bids to purchase any offered items, presenting via a computer user interface said entitled offerings to one of more prospective brokers such that each broker may review entitled offerings containing information regarding items being offered for sale on which the broker is entitled to bid, but are not allowed to view information regarding items to which each broker is not entitled to purchase" (col.4, line 45 to col.5, line 27). **Because the Appellant added limitations that were not previously presented, the Examiner was forced to change the rejection to incorporate Fisher; therefore, the Action was properly made final.**

The Appellant argues that Walker does not disclose or suggest "as an additional rule that may be submitted by the customer when attempting to purchase an item, so that the customer may improve their chances of purchasing the exact item desired". In response, Walker discloses that "a CPO is a binding offer containing one or more conditions submitted by a customer for the purchase of an item, at a customer-defined price" (col.2, lines 35-45 and col.5, lines 30-40). The CPO disclosed by Walker may include any number of conditions (ruling conditions or restrictions) that the customer desires. Walker gives the example of air travel, but does not limit the invention strictly to air travel (col.25, lines 4-8). The Examiner referenced col.2, lines 35-45 in the first Office Action mailed on October 4, 2003.

The Appellant argues that there is no motivation or suggestion to combine the Walker and Fisher references. In response, Walker discloses that "the present invention relates generally to a system for selling goods and services, such as airline tickets and, more particularly, to a method and system for managing the sale of such goods and services by a seller, such as an airline, to customers who have submitted an offer for the purchase of such items" (col.1, lines 11-17), or an auction. Again, Walker gives the example of air travel, but does not limit the invention strictly to air travel (col.25, lines 4-8). Fisher teaches that "the present invention relates generally to electronic commerce and more particularly to conducting an interactive auction over an electronic network" (col.1, lines 5-10). Both Walker and Fisher describe methods of conducting electronic auctions, which renders them analogous art. Thus, the Examiner contends that there is motivation to combine the Walker and Fisher patents.

The Appellant argues that neither Walker nor Fisher disclose or teach the use of an "entitlement schema". In response, Walker discloses an auction comprising CPO rules that may be interpreted as a contractual relationship that exists between one or more brokers, one or more traders, and manufacturer or service provider. The CPO rules may contain a variety of information and regulations concerning items that are available. Therefore, the Examiner is interpreting Walker as reading onto the invention substantially as claimed. Fisher teaches an auction system in which offerings are presented for review prior to receiving bids (col.4, lines 45 to col.5, line 27). The Examiner found it to have been obvious to incorporate the teaching of Fisher into the invention disclosed by Walker to allow a user to submit this limitation as an additional condition (ruling conditions or restrictions), thus improving their chances of purchasing the exact item desired. Again, Walker does not limit the invention to strictly airline use; therefore, a customer may choose to add this limitation when participating in the auctioning of any type of good or service.

With regard to the independent claims, the Appellant argues that no rationale was applied. In response, the minor amendments to the dependent claims appeared to have been made to ensure proper antecedent basis and to incorporate wording to more clearly define the dependent claims in light of the amendments to the independent claims. The Examiner again points out that a detailed rejection was given in the first Office Action and that rationale was given in the final rejection. Therefore, the Examiner contends that the final rejection to the dependent claims was proper, as well.

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,



Lalita M. Hamilton
November 28, 2004

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